

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

EDUARDO ANTONIO LARA-FLORES,)

Defendant.)

Case No.: 2:10-cr-0232-GMN-PAL

ORDER

Pending before the Court is Defendant Eduardo Lara-Flores' ("Defendant") Petition for Immediate Release, (ECF No. 100), Motion to Initiate a Summary of Judgment, (ECF No. 108), and Motion for Evidentiary Hearing, (ECF No. 109). The Government responded to Defendant's Petition for Immediate Release. (ECF No. 103). For the reasons discussed below, the Petition and both Motions will be **DENIED**.

I. BACKGROUND

The instant Petition and Motions follow Defendant's guilty plea to one count of being a deported alien found unlawfully in the United States, (Minutes of Proceedings, ECF No. 20), for which Defendant was sentenced to twenty-four months in custody and three years of supervised release, (Judgment as to Eduardo Antonio Lara-Flores, ECF No. 31). Defendant's supervised release commenced on February 21, 2012. (12C Petition for Warrant, ECF No. 54). On November 17, 2014, the Court held a revocation hearing in which it found that Defendant had violated four separate supervised release conditions. (Minutes of Proceedings, ECF No. 92). Upon making this finding, the Court sentenced Defendant to one year and one day in prison. *Id.*

II. LEGAL STANDARD

Pursuant to Federal Rule of Appellate Procedure 4(b), a defendant must file a notice of

1 appeal within fourteen days after the judgment or the order being appealed is entered. Absent a
2 notice of appeal, under Federal Rule of Criminal Procedure 35, a district court may reconsider a
3 sentence only under the following circumstances: (1) correcting an arithmetical, technical, or
4 other clear error within fourteen days after sentencing; or (2) reducing a sentence, upon the
5 government's motion, due to a defendant's substantial assistance in investigating or prosecuting
6 another person.

7 **III. DISCUSSION**

8 Under Federal Rule of Appellate Procedure 4, Defendant had fourteen days from
9 November 17, 2014 to appeal his sentence. Defendant did not file an appeal, and instead
10 petitioned this Court for his immediate release more than six months after his sentence was
11 imposed. (Def's Pet. for Immediate Release, ECF No. 100). Further, pursuant to Federal Rule
12 of Criminal Procedure 35(a), the fourteen-day window has closed for this Court to correct any
13 clear error in Defendant's sentence. Additionally, the government has not moved for the Court
14 to reduce Defendant's sentence due to any substantial assistance. *See* Fed. R. Crim. P. 35(b).
15 Because neither circumstance which could warrant reconsideration of Defendant's sentence
16 under Federal Rule of Criminal Procedure 35 exists here, and since Defendant did not timely
17 file an appeal, Defendant's request that this Court reconsider his sentence is untimely and
18 procedurally barred.

19 **IV. CONCLUSION**

20 **IT IS HEREBY ORDERED** that Defendant's Petition for Immediate Release, Motion
21 for Summary of Judgment, and Motion for Evidentiary hearing (ECF Nos. 100, 108, 109) are
22 **DENIED**.

23 **IT IS FURTHER ORDERED** that Defendant's Motion for a Status Report (ECF No.
24 113) is **DENIED as moot**.

25 **DATED** this 2nd day of July, 2015.